

The complaint

Mr M complains that Santander UK Plc won't refund disputed payments made from his current account.

What happened

Mr M says that between January and September 2020 fraudulent transactions totalling over £6,000 were made from his current account to online gambling companies.

Mr M says his debit card and PIN may have been intercepted in the communal hall of the property he lives at. Mr M says he has been the victim of fraud and that similar payments were also made from accounts he holds with other banks, but those banks have refunded them to him.

Santander investigated and decided not to refund the disputed payments. It didn't agree that the transactions were indicative of fraud. It thought Mr M had authorised the withdrawals or made them himself because:

- the transactions were carried out using Mr M's genuine card details
- it believes Mr M has not been consistent in his explanation of what has happened
- genuine transactions were carried out in between the ones that Mr M is disputing
- evidence from one of the online gambling companies shows that the account that had been registered used some of Mr M's details and that the account was opened and used from an IP address that Mr M had also used for payments from his current account that he was not disputing
- the pattern of spending was not consistent with fraud

Santander also decided to close Mr M's accounts with it at this stage.

Mr M didn't agree with Santander's decision, so he asked us to investigate.

Our investigator didn't recommend the complaint should be upheld. In summary, he felt it was more likely that Mr M had authorised the transactions or allowed them to be made, for largely the same reasons that Santander had set out. He also felt Santander had acted reasonably when it decided to close Mr M's accounts.

Mr M disagreed, he maintains that he did not make the payments and provided evidence to show that another bank had accepted he had been the victim of fraud.

Because no agreement could be reached the complaint has been passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, my review of the evidence has led me to the same overall conclusions as the investigator previously set out.

The relevant law here is the Payment Services Regulations 2017, and broadly speaking Mr M is responsible for any payments that he has authorised (either by making them himself or allowing someone else to) and he isn't responsible for unauthorised payments.

The terms and conditions of Mr M's account also explain that Santander will not refund disputed payments if it can show that the account holder has authorised that payment.

So, the key question here is whether Santander has acted fairly in concluding that Mr M did authorise the disputed payments.

I'm satisfied from the bank's technical evidence that Mr M's genuine card details were used to make the disputed transactions. But the regulations relevant to this case say that is not, on its own, enough to enable Santander to hold him liable. So I also need to think about whether the evidence suggests that it's more likely than not that Mr M consented to the payments being made.

From what I've seen, I don't think it's unreasonable for Santander to conclude that Mr M authorised the transactions. This is because:

- The gambling account the payments were made to was in Mr M's name, with the correct date of birth
- I can't see why a fraudster would have chosen to use Mr M's account in this way - any winnings from the gambling account came straight back to Mr M's Santander account, so it's difficult to see how a fraudster could have benefitted from this as Mr M has not suggested that any money was fraudulently withdrawn from his account
- Mr M has said he thinks his card and PIN could have been intercepted but he still had his card as he was using it for payments throughout the period in question
- The disputed payments cover a period of several months, and given that Mr M continued to use his account throughout this period for other transactions, it's difficult to see how he couldn't have noticed that so much money was missing
- Santander has provided evidence to show that Mr M was regularly logging into online banking, and that he was making payments, which he has not claimed were fraudulent, from the same IP address as the gambling account was set up from

I appreciate that other banks Mr M has accounts with may have upheld his fraud claims with them, but I must consider this complaint individually. We don't know the details of Mr M's claims with other banks or why those banks reached the decisions they did. But in this case, I'm satisfied from the evidence I've seen that, on balance, it's more likely that Mr M authorised the disputed payments. It follows that Santander is entitled to hold him liable for them.

I'm also satisfied that Santander acted reasonably in closing Mr M's accounts. The terms and conditions of his accounts with Santander say that it can close an account, without notice, if the account holder has breached the conditions of the account. Given Santander's decision on Mr M's fraud claim, I think Santander was within its rights to close his accounts at this stage.

I know this will be very disappointing for Mr M, but I hope he will understand the reasons for my decision.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 December 2022.

Sophie Mitchell
Ombudsman